

PATENT COOPERATION TREATY

ne:
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

MADDERN'S
1st Floor Wolf Blass House
64 Hindmarsh Square
ADELAIDE SA 5000

MADDERN'S

23 JUL 2003

PCT

WRITTEN OPINION
(PCT Rule 66)

Date of mailing (day/month/year) **22 JUL 2003**

Applicant's or agent's file reference
18732

REPLY DUE within **TWO MONTHS**
from the above date of mailing

International Application No.
PCT/AU03/00010

International Filing Date (day/month/year)
8 January 2003

Priority Date (day/month/year)
17 January 2002

International Patent Classification (IPC) or both national classification and IPC
Int. Cl. ⁷ E04F 15/10 15/22

Applicant

DESIGN DEVELOP COMMERCIALISE PTY LTD et al

1. This written opinion is the **first** drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:

I	<input checked="" type="checkbox"/>	Basis of the opinion
II	<input type="checkbox"/>	Priority
III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV	<input type="checkbox"/>	Lack of unity of invention
V	<input checked="" type="checkbox"/>	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
VI	<input type="checkbox"/>	Certain documents cited
VII	<input type="checkbox"/>	Certain defects in the international application
VIII	<input checked="" type="checkbox"/>	Certain observations on the international application
3. The **FINAL DATE** by which the international preliminary examination report must be established according to Rule 69.2 is:
17 May 2004
4. The applicant is hereby invited to reply to this opinion.

When?	See the Reply Due date indicated above. However, the Australian Patent Office will not establish the Report before the earlier of (i) a response being filed, or (ii) one month before the Final Date by which the international preliminary examination report must be established. The Report will take into account any response (including amendments) filed before the Report is established. If no response is filed by 1 month before the Final Date , the international preliminary examination report will be established on the basis of this opinion. Applicants wishing to have the benefit of a further opinion (if needed) before the report is established should ensure that a response is filed at least 3 months before the Final Date by which the international preliminary examination report must be established.
How?	By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.
Also	For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis. For an informal communication with the examiner, see Rule 66.6.

Name and mailing address of the IPEA/AU
AUSTRALIAN PATENT OFFICE
PO BOX 200, WODEN ACT 2606, AUSTRALIA
E-mail address: pct@ipaaustralia.gov.au
Facsimile No. (02) 6285 3929

Authorized Officer

D. Melhuish
DAVID MELHUSH
Telephone No. (02) 6283 2426

WRITTEN OPINION

International application No.

PCT/AU03/00010

I. Basis of the opinion

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,
pages , as amended under Article 19,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"

WRITTEN OPINION

International application No.

PCT/AU03/00010

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 1 - 39	YES
	Claims	NO
Inventive step (IS)	Claims 9, 23, 31, 38	YES
	Claims 1 - 8, 10 - 22, 24 - 30, 32 - 37, 39	NO
Industrial applicability (IA)	Claims 1 - 39	YES
	Claims	NO

2. Citations and explanations

INVENTIVE STEP (IS) Claims 1-8, 10-22, 24-30, 32-37, 39:

D1 - US 4942072 A

D2 - US 4620998 A

D3 - US 5907934 A

D4 - US 5787654 A

D5 - US 4930286 A

D6 - US 5992106 A

D1 to D3 each disclose tile patterns using shaped tiles and substantially smaller connector tiles which are interengaged with each other by connector means. They do not disclose the shaped and connector tiles having a support array comprising items having a common length extending from the lower surface of the tile to define a floor engaging plane. However this feature is considered to be common general knowledge as it appears in a large number of patent specifications, of which D4 to D6 are examples. Therefore the combination of any of D1 to D3 with one of D4 to D6 is not considered inventive because utilising the standard tile construction of D4 to D6 to make the known tile patterns of D1 to D3 would be within the skill of the person skilled in the art. I consider that this difference between the claimed invention and the citation constitutes no more than a mere workshop improvement. It is an arrangement that any competent worker in the art would be expected to make directly and without difficulty and by routine steps alone. Therefore the claimed invention does not involve an inventive step. This combination discloses the features of claims 1-8, 10-22 and 24.

D7 - AU 7161/22 A

D7 discloses in figures 2 and 3 tiles that interengage with adjacent tiles wherein each tile has only either male or female connector means. Again this citation does not disclose the tiles having a support array formed from items having a common length, but applying the well known tile construction of D4 to D6 to figures 2 or 3 of D7 results in a tile having the features of claims 25-30, 32-37 and 39. Therefore the combination of D7 with any of D4 to D6 renders claims 25-30, 32-37 and 39 not inventive. In D7, the "main tile" is shown in figure 3 and the "connector tile" is shown in figure 2.

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 25 and 33 are not fully supported by the description because what a "main tile" is and what a "connector tile" is and the relationship between the two has not been defined. For example, the claims allow the main and connector tiles to be the same size, a construction not envisaged by the description.

Claim 8 lacks clarity because there is no antecedent for "the free ends" at line 3.